

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
MUSSELSHELL RIVER ABOVE ROUNDUP BASIN (40A)
PRELIMINARY DECREE

* * * * *

CLAIMANTS: George L. Cremer; Leo J. Cremer Jr.

OBJECTOR: Cremer Rodeo Land & Livestock Co.

CASE 40A-0175-R-2022

40A 179837-00

40A 179838-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

The above-captioned claims appeared in the Preliminary Decree for the Musselshell River above Roundup (Basin 40A) issued on June 7, 2017. The claims

received objections from Cremer Rodeo Land & Livestock Co. based on priority date and source name.

FINDINGS OF FACT

1. Claims 40A 179837-00 and 40A 179838-00 appeared in the Basin 40A Preliminary Decree as claims for stock drinking directly from springs in the NESWSW of Section 8, T3N, R18E, Sweet Grass County.

2. The claims were decreed with a priority date of January 25, 1964. The Statement of Claims listed 1963 as the priority date, based on the Notice of Completion of Groundwater Appropriation attached to the Statement of Claims.

3. The priority dates were modified during DNRC verification to the date the Notice of Completion was filed – January 25, 1964.

4. Cremer Rodeo Land & Livestock Co. objected to the priority dates, stating:

Nelson Story arrived in Livingston, Montana including area of this ranch in December 1866 with over 600 head of cattle from Texas (The Crazy Mountain Museum and the Big Sky Words website). The first ranchers on the Musselshell were William Gordon and Perry, Sanford, and John Moore. William Gordon brought a small group of cattle to the Upper Musselshell in 1870 to winter there and by 1885 had over 1,200 head of cattle (Milton Ranch History). John Murphy started the 79 Ranch in 1879 and had over 10,000 head of cattle in the Musselshell drainage by 1883 Milton Ranch History. The priority date of this claim should be changed from 01/25/1964 to 12/31/1866. Livestock have been watering at the location of this claim to the present time. The source name also requires correction, the spring does not flow into a named source.

5. On July 13, 2022, the Court ordered Objector Cremer Rodeo Land & Livestock Co. to file evidence supporting their objections to the priority dates.

6. On August 24, 2022, counsel for the parties requested an extension to complete ownership updates and file the requested documents. The extension requested was granted.

7. On September 23, 2022, counsel for the parties again stated that they were finalizing affidavits in support of the objections and requested an additional 14 days to file the affidavits and allow ownership updates to be processed.

8. On December 9, 2022, counsel for the parties file a status report indicating an ownership update form was filed with the DNRC and stating that “Coulee Creek Land & Livestock and Sure Shot Land Company will file documents to resolve the objections filed by the previous owner.” Nothing was filed.

9. On March 8, 2023, the Court ordered Objector to show cause why their objections to claims 40A 179837-00 and 40A 179838-00 should not be dismissed. The

Order stated that “[i]f nothing is filed by the deadline, the objections will be dismissed.”
Nothing was filed.

PRINCIPLE OF LAW

1. Sanctions applied against objectors and intervenors may include dismissal of the objector or intervenor from the proceeding. Rule 22, W.R.Adj.R.

CONCLUSION OF LAW

1. Pursuant to Rule 22, W.R.Adj.R., the objections to claims 40A 179837-00 and 40A 179838-00 should be dismissed. The elements of the claims should remain as they appeared in the Basin 40A Preliminary Decree.

RECOMMENDATIONS

Based on the foregoing Findings of Fact and Conclusions of Law, this Master recommends that the Court dismiss the objections to claims 40A 179837-00 and 40A 179838-00.

A post decree abstract of each water right claim is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

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POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A

Water Right Number: 40A 179837-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GEORGE L CREMER
PO BOX 276
MELVILLE, MT 59055 0276

LEO J CREMER JR
241 S. FRONTAGE ROAD
BIG TIMBER, MT 59011 8030

Priority Date: DECEMBER 31, 1955

Type of Historical Right: FILED

Purpose (use): STOCK

Flow Rate: 15.00 GPM

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

| <u>ID</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|-----------------|----------------|------------|------------|------------|---------------|
| 1 | | NESWSW | 8 | 3N | 18E | SWEET GRASS |

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

| <u>ID</u> | <u>Acres</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
|-----------|--------------|-----------------|----------------|------------|------------|------------|---------------|
| 1 | | | NESWSW | 8 | 3N | 18E | SWEET GRASS |

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

179837-00 187797-00

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
MUSSELSHELL RIVER, ABOVE ROUNDUP
BASIN 40A

Water Right Number: 40A 179838-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: GEORGE L CREMER
PO BOX 276
MELVILLE, MT 59055 0276

LEO J CREMER JR
241 S. FRONTAGE ROAD
BIG TIMBER, MT 59011 8030

Priority Date: DECEMBER 31, 1940

Type of Historical Right: FILED

Purpose (use): STOCK

Flow Rate: 15.00 GPM

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

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| 1 | | NESWSW | 8 | 3N | 18E | SWEET GRASS |

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Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

| <u>ID</u> | <u>Acres</u> | <u>Govt Lot</u> | <u>Qtr Sec</u> | <u>Sec</u> | <u>Twp</u> | <u>Rge</u> | <u>County</u> |
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179838-00 187795-00